

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

OTIS PARKES,

No. 4:17-CV-01019

Petitioner,

(Judge Brann)

v.

(Magistrate Judge Carlson)

J. BALTAZAR,

Respondent.

ORDER

APRIL 23, 2019

Otis Parkes, a federal inmate, filed this 28 U.S.C. § 2241 petition asserting that the Bureau of Prisons (“BOP”) violated his due process rights when it conducted a disciplinary hearing, concluded that Parkes possessed cocaine, and sanctioned him with, *inter alia*, the loss of good time credits.¹ In January 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation recommending that this Court deny Parkes’ § 2241 petition.² In his recommendation, Magistrate Judge Carlson concludes that the BOP satisfied Parkes’ procedural due process rights when it: (1) provided advanced written notice of the disciplinary charges; (2) allowed Parkes to call witnesses and present evidence; and (3) provided a written statement outlining the evidence relied upon and detailed the reasons for its findings.³

¹ Doc. 1.

² Doc. 22.

³ *Id.* at 4-12.

Furthermore, given the evidence presented to the BOP, Magistrate Judge Carlson recommends finding that the BOP's determination is supported by some evidence.⁴

Parkes filed belated objections to the Report and Recommendation wherein he asserts that his due process rights were violated because the BOP never produced the chemical test that confirmed the substance that Parkes possessed was cocaine.⁵ "If a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'"⁶ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations.⁷ Upon de novo review of Magistrate Judge Carlson's Report and Recommendation,⁸ the Court finds no error in the conclusion that Parkes' petition fails on its merits. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Martin C. Carlson's Report and Recommendation (Doc. 22) is **ADOPTED**;
2. Parkes' 28 U.S.C. § 2241 petition (Doc. 1) is **DENIED**; and

⁴ *Id.* at 12-14.

⁵ Doc. 23.

⁶ *Equal Emp't Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁷ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

⁸ Although Parkes' objections were untimely, because the objections—and Parkes' § 2241 petition—fail under any standard of review, the Court will conduct de novo review of the Report and Recommendation.

3. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge